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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

2017 JUL 17 AM 11:03

PETER OPPENEER
CLERK US DIST COURT
WD OF WI

JOSE SOTO,
Plaintiff,

V.

Case No.

17 C 551

NANCY WHITE, JEFFREY MANLOVE, DONNA LARSON,
BELINDA SCHRUBBE, ANN YORK, RN GALE,
AMY GUNDERSON,
Defendants.

VERIFIED CIVIL RIGHTS COMPLAINT

NOW COMES the plaintiff Jose Soto appearing PRO SE and as a NATURAL person for causes of action against the defendants denominated above under 42 U.S.C. §1983 and invoking the courts supplemental jurisdiction, alleges and shows the court the following:

A. JURISDICTION

1. This court has the jurisdiction over this action and the plaintiff's federal claims pursuant to 28 U.S.C. §1331, §1334 and 42 U.S.C. §1983. The court has supplemental jurisdiction over the plaintiff's state claims pursuant to 28 U.S.C. §1367.

PARTIES

2. Plaintiff Jose Soto ("Soto"), is currently a state prisoner confined at the Waupun Correctional Institution ("WCI"), P.O. Box 351, Waupun, Wisconsin 53963-0351. At times relevant and material to this action, Soto maintained same place of residence.

3. Defendants Nancy White, Jeffrey Manlove, Donna Larson, Belinda Schrubbe, Ann York, RN Gale, and Amy Gunderson, are each employed at WCI in the following capacities: Nancy White as the Health Service Unit Manager, Jeffrey Manlove as it's Medical Doctor, Donna Larson as it's Registered Nurse and off and on Health Service Unit Manager, Belinda Schrubbe as it's Health Service Unit Manager at times relevant to this action, Ann York as it's Registered Nurse, RN Gale as it's Registered Nurse, Amy Gunderson as it's Registered Nurse. Each defendant has acted under the color of state law at times relevant and each are sued in their official capacity for declatory and injunctive relief as may be appropriate.

**B. SOTO HAS A DIAGNOSED SERIOUS MEDICAL
CONDITION KNOWN TO DEFENDANTS.**

4. The plaintiff re-alleges all of the previous paragraphs as though fully set forth herein.

5. Soto suffers from a "significant congenital foot deformity" with "poor foot allignment", which makes him "prone to overuse injuries such as planter faciitis, posterior tibial tendonitis, achilles tendonitis and excess strain to knees, hips and spine", as attested to by medical expert Dr. John P. Kresbach, DPM in attached hereto exhibit "A" at p.g. 3, ¶1 in Soto's chart and known to defendants.

6. "Given the structure of Soto's feet. he also has **severe** fallen arches which can result in **severe** impairment if left un-treated and lead to needless injury, pain and suffering when treatment is withheld". As attested to by medical expert Dr. John P. Kresbach, DMP in attached hereto Exhibit "A", p.g. 3, ¶2 in Soto's medical chart and known to defendants.

7. Defendants Nancy White, Jeffrey Manlove, Donna Larson, Belinda Schrubbe, Ann York, R.N. Gale and Amy Gunderson, are personally aware of same Exhibit "A" attached hereto as Soto has

personally directed each defendant to view Exhibit "A" hereto in Soto's presence and Exhibit "A" hereto, is at front of Soto's medical chart in defendants custody and possession.

**C. SOTO SUBMITTED NUMEROUS HEALTH SERVICE REQUESTS (HSR'S)
COMPLAINING OF PAINS TO HIS FEET, ANKLES, AND HIPS WHICH WENT
UN-EXAMINED AND UN-TREATED.**

8. Plaintiff re-alleges all of the previously stated paragraphs as though fully set forth herein.

9. Over the span of two years, commencing January of 2015 on through currently, Soto has continuously submitted Health Service Requests (HSR's) to Health Service Unit (HSU) complaining of severe foot pains, swelling, bruising and ankle, knee and hip pains.

10. Despite these HSR's, Soto's feet have NOT been physically examined by RN's Ann York, RN Gale, Amy Gunderson, Medical Doctor Jeffrey Manlove, HSU managers Nancy White, Donna Larson, or belinda Schubbe. In turn, Soto's feet have NOT been treated to alleviate pain or injuries to feet, ankles, knees or hips.

11. Over the span of two years now (January 2015 through presently), Soto has detailed in his HSR's that the state issued shoe defendants refuse to replace, has a foam block at the back bottom sole of the shoe which sinks in causing Soto's custom orthotics to raise and elevate at the front of his shoe at a 45° angle and twists to a side, placing severe strain and pressure on Soto's fore foot, achilles, arch and ankles which in turn causes excruciating pain to the point Soto's unable to walk without limping, tears, or grimace. The pain has become so unbearable Soto's unable to get much sleep and has been unable to attend recreation for a year now.

D. SOTO IS DELIBERATELY DENIED ADEQUATE, BETTER AND SUPPORTIVE SHOES TO ALLEVIATE PAIN AND INJURIES CONTRARY TO PODIATRIST'S RECOMMENDATION AND DOCUMENTED INSTABILITY OF CURRENT SHOES GIVEN TO SOTO BY DEFENDANTS.

12. On February 20, 2015, Soto was seen by podiatrist Jill M. Milligan, DPM at the University of Wisconsin hospital (UW Health) for pain in his feet, and achilles tendon. At this appointment Dr. Jill M. Milligan determined the shoes currently issued to Soto by WCI were "very unsupportive, flimsy, and the orthotic seem to be sitting or sinking into the heel causing him to have more pressure at the forefoot. I think a better quality shoe, such as a new balance or similar athletic shoe that can fit his orthotics, will likely resolve the right foot pain". (See attached hereto exhibit "B".)

13. Since the February 20, 2015 podiatrist's order, Soto continues to be denied a more supportive or different shoes by WCI's HSU managers Belinda Schrubbe, Donna Larson and Nancy White as well as Medical Doctor Jeffrey Manlove even though each defendant continues to be notified repeatedly by Soto about his feet, hip and knee pains resulting from "flimsy" shoes.

14. HSU manager nancy White has personally told Soto by mail on numerous occasions that she will NOT issue Soto different shoes regardless of the February 20, 2015 order by podiatrist or Soto's pain and injuries affecting his gait and daily activities.

PLAINTIFF'S FIRST CAUSE OF ACTION

15. Plaintiff realleges all of the previous paragraphs as though fully set forth hereto.

16. The defendants admit and are aware that Soto carries a diagnosed serious medical condition as outlined by several doctors and specialist's over years warranting treatment by proper fitting, supportive and good quality shoes, yet have failed to provide these properly fitting and supportive shoes to Soto, impinging upon Soto's 8th and 14th U.S.C. Amendment rights to medical care, treatment, equal protection and items needed.

17. Defendants denial of medical exams to inspect reported bruises, swelling, pain and or failure to treat same, negligently impinges upon Soto's 8th U.S.C.A. right to be free of cruel and unusual treatment, 14th U.S.C.A. right to be treated equally to those similarly situated, is deliberately indifferent and impinges upon Soto's 8th U.S.C.A right to medical care.

SECOND CAUSE OF ACTION

18. Plaintiff realleges all previous paragraphs as though fully set forth hereto.

19. Defendant's refusal to provide Soto with properly fitting, more supportive shoes to alleviate pain to feet, ankles, knees, hips and prevent injuries to same following podiatrist's recommendation, impinges upon Soto's 8th and 14th U.S.C.A.'s.

20. Defendant's deliberate refusal to treat Soto's pain and injuries to feet, ankles, knees and hips, infringes upon Soto's 8th and 14th U.S.C.A's.

21. Defendant's knowingly forcing Soto to walk around in shoes that cause his orthotics to sink in at the heel and raise at a 45° angle, causing unnecessary pressure to Soto's forefoot, severe pain, limp and injury described by podiatrist in need of correcting, violates Soto's 8th and 14th U.S.C.A.' S.

22. Defendants Nancy White, Jeffrey Manlove, Donna Larson, Belinda Schrubbe, Ann York, RN Gale and Amy Gunderson, all failed to x-ray, examine or even look at Soto's bruised, swollen and painful feet after having been told "in writing" and having read expert and podiatry reports about Soto's severe foot condition, pain and need for treating, was both negligent and deliberate. These negligent and deliberate acts violated Soto's 8th and 14th U.S.C.A. protections under the United States Constitution as well as Wisconsin Constitution protections.

EXHAUSTION OF ADMINISTRATIVE REMEDIES.

23. Where applicable and available, Plaintiff Soto has exhausted his administrative remedies through the Inmate Complaint Review System.

NOTICE OF CLAIM

24. Where applicable, Soto has, with respect to his state tort claims asserted herein, filed a Notice Of Claim with the Wisconsin Attorney General pursuant to Wisconsin Statute §893.82.

JURY TRIAL DEMAND.

The plaintiff demands a jury trial by jury in this action.

VERIFICATION.

The plaintiff Jose Soto, has read the foregoing 25 paragraphs, knows the contents thereof, and under the penalty of perjury, states that the same are true and correct.

Dated: June 29th, 2017

Sworn To And Declare Under Penalty Of Perjury

Under 28 U.S.C. §1746 BY: [Signature] 6/29/17

(Jose Soto PRO SE)

WHEREFORE, plaintiff prays for judgement against the defendants, individually and severally, and the following relief:

a.) A declatory judgement declaring defendant's denial of medically needed more stable and supportive shoes, violates the 8th and 14th U.S.C.A.'s;

b.) A declatory judgement declaring defendant's denial of medical treatment, exams or follow ups, violated the 8th and 14th U.S.C.A.'s;

c.) A declatory judgement declaring defendant's deliberate denial of complying with recommended treatment and expert reports, violated the 8th and 14th U.S.C.A.'s;

d.) Preliminary and injunctive relief as follows:

1.) Enjoining defendant's refusal to provide Soto medical exams, follow ups and treatment of feet while in segregation or general population;

2.) Enjoining defendant's refusal to provide Soto properly fitting shoes with better support and stability as recommended by podiatrist and deemed needed by expert;

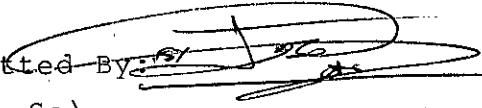
e.) Soto seeks compensatory damages against defendant's Nancy White, Jeffrey Manlove, Donna Larson, and Belinda Schrubbe, in the aggregated amount of \$150,000 and against Ann York, RN Gale and Amy Gunderson, in the amount of \$50,000;

f.) Soto seeks punitive damages against defendant's Nancy White, Jeffrey Manlove, Donna Larson and Belinda Schrubbe, in the amount of \$150,000 and against Ann York, RN Gale, and Amy Gunderson, in the amount of \$50,000;

g.) All costs, disbursements, and;

h.) Any and all other relief the court deems fit to impose under the circumstances.

Dated this 29th day of June, 2017.

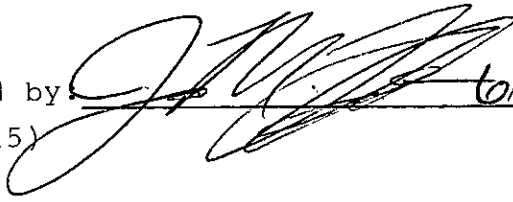
Respectfully Submitted By: 

(Jose Soto -Pro Se)

Waupun Corr. Inst.

P.O. BOX 351

Waupun, Wisconsin 53963-0351

Drafted and prepared by 

(Jae Robinson #469015)

WCI/P.O. BOX 351

Waupun, Wisconsin 53963

"DUE TO MR. SOTO'S MENTAL HEALTH AND LIMITED

LIBRARY ACCESS TO LEGAL LIBRARY I HAVE

PREPARED ALL 8 PAGES HERETO."

 6/29/17.